

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of AUDRA ROBINSON and  
MICHAEL ROBINSON, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MICHAEL D. ROBINSON,

Respondent-Appellant,

and

VALERIE THOMAS,

Respondent.

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UNPUBLISHED

March 1, 2007

No. 271770

Genesee Circuit Court

Family Division

LC No. 02-115396-NA

Before: Hoekstra, P.J., and Markey and Wilder, JJ.

PER CURIAM.

Respondent-appellant appeals by right from the trial court's order terminating his parental rights under MCL 712A.19b(3)(a)(ii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Respondent-appellant argues that the trial court did not have personal jurisdiction over him because he was not personally served with the amended petition for temporary custody, which contained allegations against him, or with the petition for termination of parental rights. Because respondent-appellant failed to preserve this issue for appellate review, our review is limited to plain error affecting his substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *In re Osborne (On Remand, After Remand)*, 237 Mich App 597, 606; 603 NW2d 824 (1999).

The lower court record does not contain evidence that respondent-appellant was served with the amended petition, but the same allegations were contained in the petition to terminate. Consequently, respondent-appellant's ability to defend against them was not hampered. Moreover, respondent-appellant was in contact with the foster care worker after the filing of the

amended petition, and was aware of the court's jurisdiction over his children and their placement outside their mother's home.

Further, we find that the trial court properly obtained personal jurisdiction over respondent-appellant where he was served with the termination petition by publication. Despite his argument to the contrary, the record indicates that personal service was attempted at respondent-appellant's last known address by a sheriff's deputy and that the foster care worker inquired of his whereabouts through four relatives or acquaintances, as checked the county jail, Friend of Court records, the phone book, and other places of record in her effort to locate him. Substituted service is sufficient to confer jurisdiction on the court. *In re SZ*, 262 Mich App 560, 565; 686 NW2d 520 (2004). Accordingly, no plain error occurred.

Respondent-appellant also argues that MCL 712A.19b(3)(a)(ii) was not established by clear and convincing evidence. The foster care worker assigned to the case was not available to testify and another worker testified regarding the contents of the case file. Nonetheless, subsection (a)(ii) was established by clear and convincing evidence. Respondent-appellant did not contact the foster care worker from August 2005 to the date of the termination trial, a period well in excess of 91 days. He did not have a parent-agency agreement and did not attend any of the hearings in this matter. There was no record of any visits between respondent-appellant and his children, and he was not mentioned in the foster care worker's last report to the court. Based on the substitute foster care worker's testimony, the trial court did not clearly err in finding clear and convincing evidence that respondent-appellant abandoned his children for 91 or more days. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

The trial court also did not clearly err in its best interests determination. Despite the substitute foster care worker's lack of personal knowledge and inability to express an opinion regarding best interests, there was clear and convincing evidence that termination was not contrary to the children's best interests. The children were in foster care for over two years, had little relationship with respondent-appellant, and respondent-appellant was not working on a parent-agency agreement. Therefore, the trial court did not clearly err in its best interests determination. MCL 712A.19b(5); *In re Trejo*, *supra* at 356-357.

We affirm.

/s/ Joel P. Hoekstra  
/s/ Jane E. Markey  
/s/ Kurtis T. Wilder